

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-2158

DANIEL S. HOLMES,

Plaintiff - Appellant,

versus

COLONIAL HEIGHTS PUBLIC SCHOOLS,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. James R. Spencer, District Judge. (CA-03-365)

Submitted: December 18, 2003

Decided: January 15, 2004

Before LUTTIG, SHEDD, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Daniel S. Holmes, Appellant Pro Se. Jenelle Elizabeth Langen, EISENHOWER, TARBY & LAUFFER, Annandale, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Daniel S. Holmes seeks to appeal the district court's order dismissing without prejudice his employment discrimination complaint. We dismiss the appeal for lack of jurisdiction because Holmes' notice of appeal was not timely filed.

In cases, like Holmes', where the United States is not a party, parties are accorded thirty days after the entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(1), unless the court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Dir., Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order dismissing the complaint was entered on the docket on June 20, 2003, and the district court in an order entered on August 11, 2003, extended the appeal period for thirty days (i.e., September 10, 2003). Holmes' notice of appeal was filed on September 11, 2003. Because Holmes failed to file a timely notice of appeal, to obtain a reopening of the appeal period, or to file within the extension granted by the district court, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in

the materials before the court and argument would not aid the decisional process.

DISMISSED